IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

ORDER

S.B. CIVIL WRIT PETITION No.3063/2000
MUKHTYAR SINGH V/s ORIENTAL BANK OF COMMERCE & Anr.

DATE OF ORDER 22.2.2007

PRESENT

HON'BLE MR. JUSTICE MOHAMMAD RAFIQ

Shri Arun Chaturvedi for the petitioner.
Shri M.A. Khan for the respondents.

Heard learned counsel for the parties.

Learned counsel for the petitioner has challenged the proceedings pending against him before the prescribed authority (S.D.O., Deeg) under the provisions of the Rajasthan Agricultural Credit Operations (Removal of Difficulties) Act, 1974. The respondent Oriental Bank of Commerce moved an application before the Prescribed Authority (respondent No.2) for recovery of a sum of Rs.1,55,267/- by filing an application dated 27.7.96. The learned counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court in Corporation Bank v/s D.s. Gowda & Anr. (1994) 5 SCC 213) and other judgments relying on this judgment which were passed by this court in Idrish & Anr. V/s Asst. Collector & Anr. (S.B.Civil Writ Petition No.2158/1998 decided on 25.2.1999 and Ramesh & Ors. V/s State Bank of Bikaner & Jaipur & Ors., S.B. Civil Writ Petition No.8392/2004 decided on 6.12.2004.

This is a common ground between the parties that this was an agricultural loan and interest on the same was charged by the respondents from the petitioner on half-yearly basis. The Hon'ble Supreme Court in para 23 of the aforesaid judgment has held as under :

> "Insofar as Civil Appeal No.544 of 1986 is concerned it relates to the Bank's right to charge compound interest i.e. interest with periodical rests on agricultural advances. We have already referred to the various circulars issued by the Reserve Bank from time to time in exercise of power conferred by Section 21/35-A of the Banking Regulation Act. We have pointed out that the said circulars/directives provide that agricultural advances should not be treated on a par with commercial loans insofar as the rate of interest thereon is concerned because the farmers do not have any regular source of income except sale proceeds of their crops which income they get once a year. The question of recovery of interest with quarterly or six-monthly rests from farmers is, therefore, not feasible. The fact that the farmers are fluid at a given point of time every year has to be kept in mind in determining the point of time when they should be expected to repay the loan or pay the installment/interest on advances. Therefore, to allow the banks to charge interest on quarterly or half-yearly rests from farmers would tantamount to virtually compelling them to pay compound interest, since they would not be able to pay the interest except once in a year i.e. when they receive the income from sale proceeds of their crops. The Reserve Bank has shown concern for the farmers by directing all banking institutions to so regulate the recovery of interest as to coincide with the point of time when the farmers are fluid. It has, therefore, been emphasised by the Reserve Bank that interest should be charged once a year to coincide with the point of

> time when the farmer is fluid and interest on current dues should not be compounded although it may be done when the advance/installment becomes overdue. Thus according to the circulars/directives, so far as loans for agricultural purposes are concerned, at best interest may be charged with yearly rests and may be compounded if the loan/installment becomes overdue. In the present case, since interest was charged with six-monthly rests that was clearly in contravention of the Reserve Bank circulars/directives. Compounding of interest on current dues on agricultural advances having been discouraged, the Bank was not entitled to charge interest with shorter periodical rests and compound the same. The Bank could add interest outstanding to the principal and compound the interest when the crop loan or term loan becomes overdue having regard to the tenor of the circular dated 14.3.1972. The High Court was, therefore, fully justified in coming to the conclusion that the Bank was not entitled to charge interest with half-yearly rest."

Keeping in view, the aforesaid judgment of the Apex Court and later judgments passed by co-ordinate benches of this court on the basis thereof, I deem it appropriate to direct the respondent Bank to redetermine the liability of the petitioner by charging the interest on yearly basis in terms given in the aforesaid judgment of the Hon'ble Supreme Court and submit the same before the Prescribed Authority within one month. The parties are directed to remain present before the Prescribed Authority on 10.4.2007.

The writ petition is accordingly, disposed of in terms of the aforesaid judgments.

(Mohammad Rafiq),J.

Chauhan/